

Moreover, Justice Fortas, "The flag is a special kind of a personality." I think each person that views the flag, whether it is singing the National Anthem or The Star Spangled Banner or saying the pledge, people view that differently.

As one walks down the mall here in Washington and one looks at it, I have seen literally thousands of people stop and take a look at the flag and the other monuments that we have to this great country. But Justice Fortas, "The flag is a special kind of personality."

Its use is traditionally and universally subject to special rules and regulations. The States and the Federal Government have the power to protect the flag from acts of desecration.

Mr. Speaker, another very famous individual, Mr. Thomas Jefferson, while serving as George Washington's Secretary of State, instructed American counsels to punish those that violated our flag. James Madison pronounced flag desecration in Philadelphia as objectionable in court and requested penalties for such.

□ 2000

Well, then, when the first amendment debate was covered, they said that is fair enough, to Mr. Solomon, but. Always followed by but. Still, there is a constitutional guarantee for expression of conduct. How do you express yourself if you do not do it verbally, or if you cannot express it by burning a flag? Do you not have the right for expressing conduct?

The Supreme Court has accepted the premise that certain expressive acts are entitled to first amendment protections based on the principle that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable. That was Texas versus Johnson. But they go on to say that not all activity with an expressive component is afforded first amendment protection.

For example, someone who opposes wildlife protections cannot go out and shoot a Bald Eagle, because it is protected. It is not only a national symbol but it is wrong.

Applying these principles, the Supreme Court upheld a statute prohibiting the destruction of draft cards against the first amendment challenge. The court stated that the prohibition served a legitimate purpose, facilitating draft induction in time of national crisis, that was unrelated to the suppression of the speaker's idea since the law prohibited the conduct regardless of the message sought to be conveyed by the destruction of the draft card.

Four Supreme Court Justices, Justice Rehnquist, Justice O'Connor, Justice Stevens and Justice White, dissenting in United States versus Eichman, stated that Congress could prohibit flag desecration consistent with first amendment protections. Their reasons are as follows:

The Federal Government had a legitimate interest in protecting the intrinsic value of the American flag, which, in times of national crisis, inspires. It motivates the average citizen to make personal sacrifices in order to achieve social goals of overriding importance.

Mr. Speaker, we have all seen films of someone carrying the flag in a battlefield and going down; and his comrade, knowing that he would be killed, would pick up that flag and charge on, because it had significance. We have seen civil rights leaders carry the American flag at the forefront of their issues; their own kind of a battle fighting for justice in this country.

So I would say that under the Constitution the Supreme Court has found that this amendment is proper, it is justifiable, and that it will pass both the House, the Senate, and we feel the President will sign it and the States will ratify it and make it illegal.

Now, the amendment is not self-enacting, Mr. Speaker. It will have to go through the ratification of States. It will have to have a statute which will define the actions taken with the desecration of a flag. It will be refined. So this is not a self-enacting amendment, and that process will go through each of the States so that they can ratify their own decisions, which most of us support the States' statutes.

Would a flag amendment reduce our freedoms under the Bill of Rights? Would this be the first time in our 200-year history that an amendment has limited the rights guaranteed under the first amendment?

No, on both accounts. The proposed amendment would not reduce our freedoms under the Bill of Rights. Rather than posing a fundamental threat to our freedom under the Bill of Rights, the proposed amendment would mature constitutional freedoms. The Bill of Rights is a listing of the great freedoms our citizens enjoy today. It is not a license to engage in any type of behavior.

The proposed amendment affirms the most basic conditions of our freedom, our bond to one another and our aspirations of national unity. That is what the American flag means to most of us, national unity and what brings us together, especially in a time of need, whether it is in combat or whether in civil strife within the boundaries of these United States.

Mr. Speaker, I yield to the gentleman from California, if he has additional comments.

Mr. HUNTER. Mr. Speaker, I just want to say to my friend that I think he has stated the issue very well, and I look forward to hundreds of our colleagues coming on board this effort, as many of them already have, and making sure that we succeed.

Mr. CUNNINGHAM. I thank the gentleman from California.

Does the gentleman from New York have any closing comments?

Mr. SWEENEY. I just want to say to the gentleman from California (Mr.

CUNNINGHAM), as one of my first pieces of legislation that I have been able to cosponsor, I am honored to be here, honored to be here as part of the gentleman's effort to push forward. The flag is a part of my family's heritage, and I feel very honored to be here.

Mr. CUNNINGHAM. I thank my colleagues. God bless America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CAPPS (at the request of Mr. GEPHARDT) for today and tomorrow, February 23rd and 24th, on account of family illness.

Mr. DAVIS of Illinois (at the request of Mr. GEPHARDT) for today, February 23rd, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. NORTON) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

The following Members (at the request of Mr. SOUDER) to revise and extend their remarks and include extraneous material:

Mr. JONES, for 5 minutes, on February 24.

Mr. BURR of North Carolina, for 5 minutes, on February 24.

Mr. SOUDER, for 5 minutes, today.

Mr. NETHERCUTT, for 5 minutes, on February 24.

Mr. COBLE, for 5 minutes, on February 24.

Mr. PAUL, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. WELLER, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes, on February 24.

(The following Member (at the request of Mr. OWENS) to revise and extend his remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 7 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 24, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

539. A letter from the Administrator, Food Safety and Inspection Service, Department